

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2946 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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PARMAR PRABHUDAS SAHNABHAI

Versus

CANARA BANK

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Appearance:

None present for Petitioner

MR RA MISHRA for Respondent No. 1

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CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 16/06/2000

ORAL JUDGEMENT :

The matter was called out in the first session and with a view to give an opportunity to the learned advocate for the petitioner, the matter was kept in the second half. In the second session also nobody is present for the petitioner.

2. The present petition is filed by the petitioner for the relief to the effect that a declaration be made in favour of the petitioner to the effect that the petitioner is regularly appointed Peon in the respondent Divisional Office at Ahmedabad of the respondent Bank on and from 1.3.1991 and for a direction that the petitioner be paid full back wages and all other consequential benefits and perquisites since then.

3. It is the case of the petitioner that the petitioner belongs to scheduled caste and that he holds requisite certificate(s) in support thereof. That the petitioner holds the educational qualification of SSC (failed). It is the case of the petitioner that the respondent Bank is having its Divisional Office at Ahmedabad and there were six vacancies of Peon at the local branches of the respondent Bank and other office at Ahmedabad. For filling up the said vacancies, the respondent Bank invited names from the Employment Exchange at Ahmedabad. The name of the petitioner was sponsored by the Sub Regional Employment Officer. In response to which the respondent Bank addressed a letter dated 27.9.1998 to the petitioner, calling upon him to appear for interview at its office at Ahmedabad on 10.10.1998, for appointment to the post of Peon at any of its local branches and offices at Ahmedabad. A copy of the same is produced at Annexure 'C' to this petition. It may be noted here that the contents of Annexure 'C' are not correctly reproduced in the petition inasmuch as the said letter clearly mentions, "Daily Wagers". The first para of that letter reads as under,

"We require candidates to work as Daily Wagers in the leave vacancies of peons at our local branches and offices."

The same fact is also mentioned in the last para of the letter, which reads as under,

"Please note that you have to appear for the interview at your own cost and there is no commitment on our part to select you for being appointed as a Daily Wager."

It is the case of the petitioner that the petitioner did not hear anything from the authorities after 27.9.1988 until the petitioner was called for personal interview on 13.10.1990. The petitioner appeared in the interview and was selected for the post of Peon. It is the case of the petitioner that the respondent Bank addressed a letter

dated 16.11.1990 asking him to appear on or before 22.11.1990 with two photographs, the original caste certificate and other certificates. The petitioner has stated in para 2 of the petition that, same was duly complied with by the petitioner. Thereafter, the petitioner proceeds to mention that, "Thereafter the respondent addressed a letter dated 22.2.1991 .. .. ". That will go to show that something is missing in between. Be that as it may. Further it is the case of the petitioner that thereafter the petitioner was sent an intimation by letter dated 22.2.1991, which mentions that,

"We are glad to inform you that you have come out successful in the interview conducted by us on 13.10.90 and you are selected for the vacancy of Daily Wager in our Bank."

It is also very specifically mentioned in the said letter that,

"In this connection please note that wages will be paid to you only for the day you will be engaged. However, you have to come to the office daily before office hours to ascertain whether your service is needed."

The letter then goes to mention that,

"Also note that only the daily wagers so selected by us are being appointed as permanent substaff whenever needed. If you are willing to accept our offer, please call on us on or before 28.2.91 with the following items :

.. .. ."

It is the case of the petitioner that pursuant to the aforesaid letter dated 22.2.1991, the petitioner called upon the respondent Bank, but the petitioner did not receive any satisfactory reply and therefore, the petitioner met many officers of the respondent Bank from time to time, but he was given a standard reply that, "they would inform the petitioner in writing as and when his services are needed in the respondent Bank." It is also the case of the petitioner that thereafter, the petitioner wrote letters on 13.3.1991, 24.3.1991, the copies of which are produced at Annexures 'F' and 'G'. It is also the case of the petitioner that said letters were sent to the respondent Bank by Registered Post A.D. It is the case of the petitioner that thereafter the

petitioner received a reply from the respondent Bank dated 10.4.1991, which is produced at Annexure 'H' to the petition. It is this letter on the basis of which the petitioner has tried to build up a case for appointment as a Peon on regular basis and the present petition is filed.

4. It is submitted by the petitioner that this reply of the respondents dated 10.4.1991 is thoroughly arbitrary, discriminatory, illegal and unconstitutional. It is also submitted by the petitioner that the petitioner continued to be out of job in spite of being selected to the post of Daily Wager Peon in the respondent Bank vide appointment order dated 22.2.1991. One of the grounds which is sought to be agitated is that the norm which is prescribed by the respondent Bank about the maximum educational qualification for the post of Peon is thoroughly unreasonable, unjust and violative of Article 14 and 16 of the Constitution of India. Therefore, the same is required to be declared illegal and unconstitutional.

5. Mr.R.A. Mishra, learned advocate for the respondent invited attention of the Court to the affidavit in reply filed in this matter. Mr.Mishra invited the specific attention of the Court to the contents of para 6 of the affidavit in reply, which reads as under :

"The petitioner was sponsored by the Employment Exchange, Ahmedabad for considering his case for empanelment as daily wager in response to the indent placed by the Bank. Accordingly, he attended the interview on 13.10.1990. He came out successful in the interview. He was informed by the Bank to produce the documents such as school leaving certificate, caste certificate, marks card, etc. on or before of the bank. On verifying the records, it was found that the petitioner had passed 9th standard and failed in SSC examination. As per the eligibility norms stipulated for empanelment of daily wagers the minimum and maximum educational qualification should be 6th standard and 8th standard pass respectively. Since the petitioner had passed 9th standard, he did not conform to the eligibility norms as stated above. Hence he was informed that his case could not be considered for empanelment as daily wager. The mere selection subject to fulfillment of certain eligibility conditions does not confer any right

on the petitioner for being empanelled as daily wager especially when the eligibility norms were not fulfilled by him. From the above, it is clear that the petitioner was not at all empanelled as daily wager. Hence there is no right vested in him to claim either empanelment as daily wager or absorption in the services of the Bank.

6. Mr.Mishra, the learned advocate for the respondent submitted that as the petitioner was holding qualification of having passed 9th standard, that was not according to the norms of the Bank and therefore, the petitioner could not be considered for empanelment as he did not conform to the eligibility norms, which were, minimum 6th standard and maximum 8th standard pass. The learned advocate, Mr.Mishra for the respondent Bank submitted that the petitioner was called upon to produce necessary documents by letter dated 22.2.1991 and that on verification of those documents it was found that the petitioner is not fulfilling the norms prescribed by the Bank for empanelment of the post of Daily Wager.

7. Mr.Mishra submitted that the nature of services for which the petitioner was selected is also described in the letter dated 22.2.1991, wherein it is stated that the petitioner will be getting wages only for the days on which he is engaged. However, the petitioner will have to come to office daily before office hours to ascertain as to whether the petitioners's services are needed. Mr.Mishra also submitted that the nature of services for which the petitioner was selected were in the nature of leave vacancies of Peons and the bank was within its right not to empanel the name of the petitioner once it is found that the petitioner was not fulfilling the norms prescribed by the Bank.

8. Mr.Mishra, the learned advocate for the respondent has submitted that prescribing the minimum and maximum qualifications for the post in question, looking to the nature of job for which the persons were required were just and proper and it cannot be said that the maximum qualification prescribed is arbitrary in any manner.

Mr.Mishra, learned advocate submitted that the petition is based on the fact that the petitioner appeared in the interview and has been selected for the same, but in fact the said interview was only for the purpose of empanelment and when it was found on verification of the documents that the petitioner does not fall within the

prescribed norms of the Bank, he was rightly not considered for the empanelment as a Daily Wager. Mr.Mishra submitted that by not considering the petitioner for empanelment, no right of the petitioner much less his fundamental right is violated.

9. Looking to the facts and circumstances of the case, prescribing of minimum and maximum qualification for a particular post by the respondents looking to the nature of duties to be discharged by the post holder cannot be said to be unjust or arbitrary. Therefore, the petition fails. The same is dismissed. Rule is discharged. Interim relief is vacated. No order as to costs.

16th June 2000 (Ravi R. Tripathi, J.)

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